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HO, THOMAS Y

ART UNIT	PAPER NUMBER
	3677

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,290

Applicant(s)

MINASSIAN, LEON

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 July 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,5-21,23 and 25-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1, 5-21,23,25-34 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION***Claim Objections***

Claim 20 is objected to because of the following informalities: the word “remainder” should be corrected to read --reminder--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 10-11, 14-15, 18-21, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Newman US3217514.

As to claim 1, Newman discloses, an article of jewelry for remembering the hours for an event (the limitation “for remembering...event” is functional language, lacking any structural details, and so holds little patentable weight), comprising: a set of primary links 11 (every other link 11 is a primary link) each of which is provided with an hour of the day indicating means 12 for indicating one of the sequential hours of the day (the limitation “for indicating...day” is functional language, lacking any structural details, and so holds little patentable weight; any structure can indicate the hour of the day depending on the wearer’s interpretation of the object or symbol), a set of connecting links 11, (connecting links are the links 11 between every other primary link 11) said connecting links 11 being spaced between said primary links 11 and together with said primary links forming a bracelet said primary links and/or said connecting links being provided with visual reminder means 25 for reminding the wearer of an event(s) (the

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limitation “for reminding,...event(s)” is functional language, lacking any structural details, and so holds little patentable weight) comprising a selectively viewable mechanism 26,27 associated with each of said primary 11 and/or connecting links 11 to indicate to the wearer which hours of the day corresponds to an events to be remembered (the limitation “to indicate...remembered” is functional language, lacking any structural details, and so holds little patentable weight).

As to claim 8, Newman discloses, wherein said visual reminder means 25 comprises a knob 25 associated with each of said primary links 11, said knobs comprising at least two viewable and different faces 26,27 (alternatively, the two faces can be the portions of 25 viewable on the border edges of 26,27), rotatable with respect to said primary link 11 to which it is associated and selectively displaying one of said viewable and different faces.

As to claim 10, Newman discloses, wherein said primary links 11 are analog representations of a watch face (applicant’s analog representation of a watch face is a surface, and so any surface can therefore be interpreted as a watch face) and said hour of the day indicating means comprising a stone marker 26 for the hour of the day and said visual reminder means 25 comprises, for each primary link 11, a rotatable knob 25 with at least two viewable and different faces 26,27 (alternatively, the two faces can be the portions of 25 viewable on the border edges of 26,27) rotatable with respect to said primary link and displaying one of said viewable faces.

As to claim 11, Newman discloses, an article of jewelry comprising a set of primary links 11 (every other link in the chain is a primary link) formed into a bracelet, each primary link having a visual indication of an hour of the day 12 for an event to be remembered; and a selectively activated reminder mechanism 25 associated with each of said primary links

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comprising a rotatable knob 25 mechanically connected to each of said primary links, said knob having at least two visually distinct faces 26,27 (alternatively, the two faces can be the portions of 25 viewable on the border edges of 26,27) for selective manipulation of a face thereof into a viewable position.

As to claim 14, Newman discloses, further comprising connecting links 11 (the links 11, between every other primary link 11, are connecting links) interconnected between said primary links 11 to form said bracelet.

As to claim 15, Newman discloses, wherein said connecting links 11 are provided with a separate visual indicating means 12 (any portion of the connecting links 11 are separate from the primary links 11) for indicating the hour of the day of each of said primary links to which said connecting link is secured (the limitation “for indicating...secured” is functional language, lacking any structural details, and so holds little patentable weight).

As to claim 18, Newman discloses, further comprising a biasing mechanism 28,30 comprising an axle 28 of square cross-section and a resilient spring 30 bearing against a flat surface of said axle for ensuring that said visual reminder means 25 is maintained in place until manually moved into a new orientation.

As to claim 19, Newman discloses, further comprising a mechanical biasing mechanism 28,30 for ensuring that said reminder mechanism 25 is maintained in place unless manually moved into a new orientation.

As to claim 20, Newman discloses, wherein said biasing mechanism is a resilient spring 30 which mechanically cooperates with said reminder means 25.

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As to claim 21, Newman discloses, wherein said visual reminder mechanism 25 comprises a knob (main square rotating portion of 25) located at the end of an axle 28 of square cross-section and said resilient spring 30 bears against said flat surfaces of said axle to hold said visual reminder means 25 in relative position unless manually moved into a new orientation.

As to claim 33, Newman discloses an article of costume jewelry as claimed in claim 1.

As to claim 34, Newman discloses an article of costume jewelry as claimed in claim 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by (see rejection under 35 U.S.C. 102(b) above) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Newman US3217514 in view of case law.

As to claim 1, Newman discloses, an article of jewelry for remembering the hours for an event (the limitation “for remembering...event” is functional language, lacking any structural details, and so holds little patentable weight), comprising: a set of primary links 11,11,11,11 (every set of four links 11 is a single primary link, with the link 11 on each side of the set of 4 links 11 being connecting links) each of which is provided with an hour of the day indicating means 12,12,12,12 for indicating one of the sequential hours of the day (the limitation “for indicating...day” is functional language, lacking any structural details, and so holds little patentable weight; any structure can indicate the hour of the day depending on the wearer’s

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interpretation of the object or symbol), a set of connecting links 11, (connecting links are the links 11 between every set of four links 11) said connecting links 11 being spaced between said primary links 11 and together with said primary links 11,11,11,11 forming a bracelet said primary links 11,11,11,11 and/or said connecting links 11 being provided with visual reminder means 25,25,25,25 for reminding the wearer of an event(s) (the limitation “for reminding...event(s)” is functional language, lacking any structural details, and so holds little patentable weight) comprising a selectively viewable mechanism 26,26,26,27,27,27,27 associated with each of said primary 11,11,11,11 and/or connecting links 11 to indicate to the wearer which hours of the day corresponds to an events to be remembered (the limitation “to indicate...remembered” is functional language, lacking any structural details, and so holds little patentable weight). Case law provides the basis for the interpretation of the set of four links being considered a single primary link. One-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

As to claim 8, Newman discloses, wherein said visual reminder means 25,25,25,25 comprises a knob associated with each of said primary links 11,11,11,11, said knobs comprising at least two viewable and different faces 26,27, rotatable with respect to said primary link 11,11,11,11 to which it is associated and selectively displaying one of said viewable and different faces.

As to claim 11, Newman discloses, an article of jewelry comprising a set of primary links 11,11,11,11 formed into a bracelet, each primary link 11,11,11,11 having a visual indication of an hour of the day 12,12,12,12 for an event to be remembered; and a selectively activated

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reminder mechanism 25,25,25,25 associated with each of said primary links 11,11,11,11 comprising a rotatable knob 25,25,25,25 mechanically connected to each of said primary links, said knob having at least two visually distinct faces 26,26,26,26,27,27,27,27 for selective manipulation of a face thereof into a viewable position.

Claims 9, 12-13, 23, 26-27, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of case law.

As to claim 9, Newman discloses an article of jewelry as claimed in claim 8 wherein said knob 25,25,25,25 comprises four faces 26,26,26,26, each face having a colored stone thereon.

As to claim 12, Newman discloses, wherein each of said knobs 25,25,25,25 has four faces 26,26,26,26, each of which is provided with a colored gem.

As to claim 13, Newman discloses, wherein, for each of said primary links 11,11,11,11, a pair of said knobs 25,25 are provided, said pair being located on the end of a rotatable axle 28,28 passing through said primary links, said knobs having different visual indicators from one another (the knobs 25,25 have equivalent designs, but because they are two different bodies, they are different from one another).

As to claim 23, Newman discloses, a bracelet for indicating an event to be remembered at an hour of the day, comprising: a series of primary links connected to form a bracelet, wherein each primary link 11,11,11,11,11 (for an explanation of the interpretation of the set of five bodies 11 as a single primary link, refer to the rejection of claim 1 under Newman in view of case law provided above) comprises an analog watch face design (face of 11; any surface can be interpreted as an analog watch face design, and this limitation holds little weight because it is a matter of opinion as to whether something looks like a watch face or not) and a marker gem 26 is

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provided for each hour for which an event may occur in a day (the limitation “for each hour...day” is functional language, lacking structural details, and so holds little patentable weight) and each primary link 11,11,11,11,11 further comprising: at least one rotatable rosette 25,25,25,25 having two or more different stones 26,26,26,26 such that only one stone, at any one time is viewable (this can be achieved by the Newman design, where all stones 26 are hidden to expose surface 27 except for a single stone 26). In this rejection, of the set of five bodies 11 that compose the primary link, as single body 11 surface is considered a watch face design, with the gem 26 on that body being the marker gem, and the other four bodies of the set of five are considered as having the rosette 25,25,25,25 and the different stones 26,26,26,26.

As to claim 26, Newman discloses, wherein said rotatable rosette 25,25,25,25 has four stones 26,26,26,26.

As to claim 27, Newman discloses, wherein each of said rosettes 25,25,25,25 are held in place by a resilient spring leaf 30,30,30,30.

As to claim 32, Newman discloses an article of costume jewelry as claimed in claim 23.

Claims 5-6 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Mariano US2322461, and further in view of case law.

As to claim 5, Newman discloses an hour of the day indicating means 12 (the claiming of the hour of the day indicating means holds little weight because it is a matter of interpretation of a user as to what can be considered as indicating an hour of the day). The difference between the claim and Newman is the claim recites, wherein said hour of the day indicating means is selected from the group consisting of Roman numerals; Arabic numbers; an analog clock face; braille markings; and a column of stones. Mariano discloses a bracelet having rotatable portions similar

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to that of Newman. In addition, Mariano further teaches that the faces of the rotatable portions can have Arabic numbers. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Mariano before him at the time the invention was made, to modify the aesthetic design of the indicating means 12 of Newman to look like Arabic numerals, as taught by Mariano, to obtain an hour of the day indicating means consisting of Arabic numerals. One would have been motivated to make such a combination because a change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

As to claim 6, Newman discloses, wherein said hour of the day indicating means 12 comprises a second indicating means 12 (the second indicating means can be another corner portion 12 on the same body 11) for indicating one of the sequential hours of the day associated with each of said connecting links 11 (the limitation “for indicating...links” holds little patentable weight, because it fails to further limit or define a structural element). Mariano teaches said second indicating means being selected from the group consisting of Roman numerals; Arabic numbers; an analog clock face; braille markings, and a column of stones.

As to claim 16, Newman discloses, said visual indication of an hour of the day 12. Mariano teaches, wherein said visual indication of an hour of the day 12 for an event to be remembered is selected from the group consisting of Roman numerals; Arabic numbers; analog clock face; braille markings; and a column of stones.

As to claim 17, Newman discloses, wherein said separate visual indicating means 12 of said connecting links 11 for indicating the hour of the day for an event to be remembered is an aesthetic design. Mariano teaches the aesthetic design to be selected from the group consisting

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of Roman numerals; Arabic numbers; analog clock face; braille markings; and a column of stones.

Claims 7, 25, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Warren US6260383, and further in view of case law.

As to claim 7, Newman discloses, wherein said set of primary links 11 are provided with aesthetic designs 12, and said set of connecting links 11 (between every other primary link 11) are provided with an analog watch face (the face of 11 can be considered an analog watch face in light of the “watch faces” shown in the drawings) and a hour of the day marking stone 26. The difference between the claim and Newman is the claim recites the primary links are provided with Roman numerals. Warren discloses a jewelry article similar to that of Newman. In addition, Warren further teaches the use of Roman numerals as an aesthetic design. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Warren before him at the time the invention was made, to modify the aesthetic designs 12 of Newman to look like roman numerals, as in Warren, to obtain primary links provided with roman numerals. One would have been motivated to make such a combination because a change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

As to claim 25, Newman discloses, wherein said primary links 11,11,11,11,11 are further provided aesthetic designs 12 to indicate the hour for which an event may occur in a day (the limitation “to indicate...day” does not further define any structure, and what the design indicates can be interpreted in many different ways by a viewer/user; thus the limitation holds little patentable weight). Warren teaches the aesthetic design of Roman numerals to indicate the hour

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for which an event may occur in a day. Case law teaches that a change in ornamental design is obvious.

As to claim 29, the difference between the claim and Newman is the claim recites, wherein said primary links are made from precious metal. Warren teaches a jewelry article similar to that of Newman. In addition, Warren teaches to make jewelry articles from precious metals. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Warren before him at the time the invention was made, to modify the material of Newman to be precious metal, as in Warren, to obtain a jewelry article made of precious metal. One would have been motivated to make such a combination because it is old and well known to make jewelry from precious metals, and the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

As to claim 30, Warren and case law teaches, wherein said primary links are made from precious metal.

As to claim 31, Warren and case law teaches, wherein said primary links are made from precious metal.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Chia US6532766, and further in view of case law.

As to claim 28, Newman discloses, wherein said analog watch face design (the watch face design can be the front face of one link 11 from the set of five links 11,11,11,11,11) and marker gems 26 (the marker gem 26 is one of gems on the link 11 from the set of five links 11,11,11,11,11) are comprised of gems (col.2, ln.14-16). The difference between the claim and

Newman is the claim recites that the marker gems are comprised of diamonds and a different colored gem. Chia discloses a jewelry article similar to that of Newman. In addition, Chia further discloses the equivalence of using an actual diamond or other gem (col.1, ln.15-25). It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Chia before him at the time the invention was made, to modify at least one of the marker gems of Newman to be made of an actual diamond as in Chia, to obtain marker gems comprised of diamond and a different colored gem. One would have been motivated to make such a combination because inasmuch as the references disclose these elements as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Response to Arguments

Applicant's arguments with respect to claims 1, 11, and 23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US4184344 to Pepin discloses mood-indicating jewelry with changeable display.

US4912307 to Shade discloses a device for keeping score during a scoring game.

US4977757 to Mesica discloses jewelry with rotatable ornamentation.

US5110130 to Aulicino discloses a puzzle having tiles transferable between casements connected in a loop.

US6065971 to Lennon discloses a finger ring counting device.

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US6467307 to Watson discloses a color-coded ornamental device.

US6561415 to Grant discloses a calorie management system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH


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